



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON, D.C. 20370-5100

ELP  
Docket No. 3531-00  
8 November 2000

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 1 November 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 29 November 1978 for four years at age 18. The record reflects that you were advanced to FA (E-2) and served without incident until 9 May 1979 when you received nonjudicial punishment (NJP) for possession of marijuana. On that date, you were identified as a drug abuser and were counseled regarding the adverse effects drug abuse can have on a naval career.

During the 25 month period from June 1979 to July 1981 you received eight more NJPs. Your offenses consisted of three instances of disobedience, 10 instances of breaking restriction, drunk and disorderly conduct, three instances of possession of marijuana and one instance of possession of cocaine and LSD, three instances of absence from appointed place of duty, two instances of failure to obey an order of the commanding officer, a two-day period of unauthorized absence, and failure to obey a lawful regulation. During this period you were counseled twice regarding your misconduct and told that failure to take

corrective action could result in processing for discharge under other than honorable conditions. You were also diagnosed by a medical officer as psychologically dependent on marijuana and other drugs.

On 21 July 1981 you were notified that you were being recommended for discharge under other than honorable conditions by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. After you were advised of your procedural rights and consulted with legal counsel, you waived your right to an administrative discharge board. However, you did submit statement as to why you believed you should receive a general discharge. Thereafter, the commanding officer (CO) recommended that you be discharged by reason of misconduct due to your frequent involvement with military authorities and drug abuse. The CO stated that you had a total lack of respect for authority and no amount of counseling by the chain of command, the command and assistance center (CAAC), or punishment had any effect on you.

On 23 August 1981, the Chief of Naval Personnel directed discharge under other than honorable conditions by reason of misconduct. Prior to your discharge, you declined in-patient treatment via a Veterans' Administration hospital. You were discharged under other than honorable conditions on 14 September 1981.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity and the fact that it has been more than 19 years since you were discharged. The Board noted your contentions that you told your chief you had a drug abuse problem but he would not let you go to CAAC because you were too valuable to the department and were the only non-rated man qualified to stand machinist mate watches. You claim that you have been clean and sober for the past four years. The Board concluded that the foregoing factors and contentions were insufficient to warrant recharacterization of your discharge given your record of 24 offenses for which you received nine NJPs, four of which were possession of illegal drugs. Your contentions are neither supported by the evidence of record nor by any evidence submitted in support of your application. Drug abuse does not excuse misconduct. The Board noted you were given an opportunity for in-patient treatment for drug abuse prior to your discharge, but you declined. The Board concluded that you were guilty of too much misconduct to warrant recharacterization to honorable or under honorable conditions. The Board thus concluded that the discharge was proper and no change is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director